



remy green <remy@femmelaw.com>

Activity in Case 1:20-cv-08924-CM IN RE: NEW YORK CITY POLICING DURING SUMMER 2020 DEMONSTRATIONS Order

remy green <remy@femmelaw.com>

Thu, Dec 29, 2022 at 4:43 PM

To: "Braun, Daniel (Law)" <dbraun@law.nyc.gov>

Cc: "Hiraoka JR., Joseph (LAW)" <jhiraoka@law.nyc.gov>, NYC Law Protest Team <NYCLawProtestTeam@law.nyc.gov>, AG-NYPDLitigation <AG.NYPDLitigation@ag.ny.gov>, Gray Legal Team-External <GrayLegalTeam@dwt.com>, Payne Litigation Team <PayneLitigationTeam@nyclu.org>, Wood <wood@klflaw.com>, Hernandez Team <hernandez@femmelaw.com>, Sierra Team <SierraTeam@moskovitzlaw.com>, Sow-Legal <Sow-Legal@blhny.com>

Hi Daniel,

As you say, that time should be sufficient, assuming the necessary folks are at the meeting -- and addresses my concerns about timing. I'll send around a zoom shortly.

If you would, could you also provide the date for the confidentiality meet and confer we agreed to hold in early January?

Thanks.

J. Remy Green*Partner*

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On Thu, Dec 29, 2022 at 4:30 PM Braun, Daniel (Law) <dbraun@law.nyc.gov> wrote:

Hi Remy,

1/11 unfortunately is not possible for us, but we could do 1/17 at noon. We recognize that date follows 1/12 by a few days (there's a long weekend in between), but it seems reasonable to anticipate that even a relatively speedy ruling on the reconsideration motion would come far enough after 1/17 to hopefully leave you enough time before your anticipated appeal is due.

Please let us know if 1/17 at noon works for you.

Best,

Daniel M. Braun

Senior Counsel

Special Federal Litigation Division

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dbraun@law.nyc.gov

212-356-2659

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From: remy green <remy@femmelaw.com>

Sent: Wednesday, December 28, 2022 5:35 PM

To: Braun, Daniel (Law) <dbraun@law.nyc.gov>

Cc: Hiraoka JR., Joseph (LAW) <jhiraoka@law.nyc.gov>; NYC Law Protest Team <NYCLawProtestTeam@law.nyc.gov>; AG-NYPDLitigation <AG.NYPDLitigation@ag.ny.gov>; Gray Legal Team-External <GrayLegalTeam@dwt.com>; Payne Litigation Team <PayneLitigationTeam@nyclu.org>; Wood <wood@klflaw.com>; Hernandez Team <hernandez@femmelaw.com>; Sierra Team <SierraTeam@moskovitzlaw.com>; Sow-Legal <Sow-Legal@blhny.com>

Subject: Re: [EXTERNAL] Re: Activity in Case 1:20-cv-08924-CM IN RE: NEW YORK CITY POLICING DURING SUMMER 2020 DEMONSTRATIONS Order

Hi Daniel,

The issues don't actually overlap, so there's not any benefit to waiting -- the reconsideration motion only concerns Interrogatories 10 and 11, while the meet and confer is on Document Request 12 (which is also one of the topics we are considering appealing).

As to the date you propose, aa meet and confer 49 days after we requested it and the Court ordered it is not reasonable. Nor is it in line with the schedule here -- since Defendants' opposition is due January 12, and I would expect an order relatively shortly thereafter, making our appeal due probable before your meet and confer date -- and certainly with no time to review.

Anything in early January -- before the opposition is due -- is workable for us, and gets us in a place where both issues we may appeal crystalize at the same time. How does January 11 at 2:00 p.m. look for you all?

Yours,

Remy.

J. Remy Green

Partner

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On Wed, Dec 28, 2022 at 5:23 PM Braun, Daniel (Law) <dbraun@law.nyc.gov> wrote:

Remy,

Defendants agree with your assessment that plaintiffs' request for an extension regarding their appeal under Rule 72 means that the parties may pick a later date to meet and confer per the Court's Order at Dkt. 780. Since defendants did not oppose plaintiffs' extension request, it seems reasonable to anticipate that the extension will be granted. If plaintiffs are amenable, defendants would be fine with the parties picking an M&C date, if necessary, after the motion is resolved. If you prefer to get something on the calendar though, would plaintiffs be at least tentatively available for an M&C at 11am on Jan. 31st?

Best,

Daniel M. Braun

Senior Counsel

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From: remy green <remy@femmelaw.com>

Sent: Tuesday, December 27, 2022 2:38 PM

To: Hiraoka JR., Joseph (LAW) <jhiraoka@law.nyc.gov>

Cc: NYC Law Protest Team <NYCLawProtestTeam@law.nyc.gov>; AG-NYPDLitigation <AG.NYPDLitigation@ag.ny.gov>; Gray Legal Team-External <GrayLegalTeam@dwt.com>; Payne Litigation Team <PayneLitigationTeam@nyclu.org>; Wood <wood@klflaw.com>; Hernandez Team <hernandez@femmelaw.com>; Sierra Team <SierraTeam@moskovitzlaw.com>; Sow-Legal <Sow-Legal@blhny.com>

Subject: Re: [EXTERNAL] Re: Activity in Case 1:20-cv-08924-CM IN RE: NEW YORK CITY POLICING DURING SUMMER 2020 DEMONSTRATIONS Order

Hi, just following up on this. I'd like to file this today by COB.

J. Remy Green

Partner

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On Thu, Dec 22, 2022 at 7:16 PM Hiraoka JR., Joseph (LAW) <jhiraoka@law.nyc.gov> wrote:

Thanks Remy. I will follow-up on this, and get back to you as soon as possible.

Joseph M. Hiraoka, Jr.

Assistant Corporation Counsel

New York City Law Department

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From: remy green <remy@femmelaw.com>

Sent: Thursday, December 22, 2022 7:14 PM

To: Hiraoka JR., Joseph (LAW) <jhiraoka@law.nyc.gov>

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Subject: Re: [EXTERNAL] Re: Activity in Case 1:20-cv-08924-CM IN RE: NEW YORK CITY POLICING DURING SUMMER 2020 DEMONSTRATIONS Order

Hi,

To follow up on this, Plaintiffs intend to ask Judge McMahon for an

extension of time to appeal this order under Rule 72 -- both to potentially make a partial reconsideration motion, and to see if this meeting moots any issues. The extension would be until 10 days after any order on a reconsideration motion.

Please let us know your position -- obviously, if we get this extension, it's a lot easier to wait longer to meet on this.

Yours,

Remy.

J. Remy Green

Partner

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On Tue, Dec 20, 2022 at 7:06 PM Hiraoka JR., Joseph (LAW) <jhiraoka@law.nyc.gov> wrote:

Hello Remy. Thank you for your correspondence. We will respond to you shortly.

Joseph M. Hiraoka, Jr.

Assistant Corporation Counsel

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From: remy green <remy@femmelaw.com>
Sent: Monday, December 19, 2022 1:52 PM
To: NYC Law Protest Team <NYCLawProtestTeam@law.nyc.gov>
Cc: AG-NYPDLitigation <AG.NYPDLitigation@ag.ny.gov>; Gray Legal Team-External <GrayLegalTeam@dwt.com>; Payne Litigation Team <PayneLitigationTeam@nyclu.org>; Wood <wood@klflaw.com>; Hernandez Team <hernandez@femmelaw.com>; Sierra Team <SierraTeam@moskovitzlaw.com>; Sow-Legal <Sow-Legal@blhny.com>
Subject: [EXTERNAL] Re: Activity in Case 1:20-cv-08924-CM IN RE: NEW YORK CITY POLICING DURING SUMMER 2020 DEMONSTRATIONS Order

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Hi all,

Following up on this.

Yours,

Remy.

J. Remy Green

Partner

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On Tue, Dec 13, 2022 at 1:52 PM remy green <remy@femmelaw.com> wrote:

Dear all,

Please provide your availability to confer as directed in this Order.

Yours,

Remy.

J. Remy Green

Partner

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From: <NYSD_ECF_Pool@nysd.uscourts.gov>

Date: Tue, Dec 13, 2022 at 12:27 PM
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U.S. District Court

Southern District of New York

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The following transaction was entered on 12/13/2022 at 12:25 PM EST and filed on 12/13/2022

Case Name: IN RE: NEW YORK CITY POLICING DURING SUMMER 2020 DEMONSTRATIONS

Case Number: 1:20-cv-08924-CM

Filer:

Document Number: [780](#)

ORDER: Plaintiffs filed a letter on September 21, 2022, seeking an order directing production and compelling responses to various requests for documents and interrogatories in four categories. See Docket # 742. Defendants responded. See Docket # 750. We address each dispute next. The Court previously required production of these materials (Docket # 754) and thus assumes this dispute is moot. This request seeks documents "related to the information collected pursuant to Local Law-2020, the Department's Early Intervention Program (which collects information regarding certain declinations to prosecute), as well as Law Department declinations to indemnify or represent officers in civil lawsuits brought from protest arrests alleging a constitutional violation." Docket # 742 at 4 n.11. It appears that in the "discovery chart," defendants agreed to produce such documents, except as they may be privileged. Now defendants interpose objections based on relevance and burden. The Court agrees with plaintiffs that positions taken as reflected in the "discovery chart" should ordinarily be binding on defendants. On the other hand, there may be some few instances where the degree of irrelevance or burden may be so great or obvious that the City will be permitted to interpose such objections even if they were not listed on the "discovery chart." For this dispute, it appears to the Court that the City may have objections of this kind. It also appears that these particular objections have not been the subject of a telephonic discussion. Finally, it appears that defendants are not relying on the confidentiality order in the Floyd case in the manner plaintiffs assert. Accordingly, the parties are directed to confer again regarding this matter and to include a discussion of burden and relevance/overbreadth. Plaintiffs' interrogatories Nos. 10 and 11 seek the identities of "each and every officer who was disciplined for using excessive force at a protest over the last 20 years," identification of the "date, location and conduct resulting in such discipline," and the "nature of the discipline received." Docket # 750 at 6 n.4.

Defendants have made a compelling showing regarding the burden of this request as currently formulated, see Docket # 750-1, and we find that the burden would be disproportionate to the needs of the case. The fact that plaintiffs' complaint in this action made allegations regarding these matters, and that the allegations were found sufficient to state a claim, is germane to the issue of relevance but does not address the question of whether any particular discovery request is appropriate following the balancing required by Fed. R. Civ.P. 26(b)(1). As to the request for an adverse inference, the request is denied as unsupported by citation to any case law or rule, other than Rule 37(c). Rule 37(c) has not been triggered by this request, however, given that there has been no determination that the City has improperly failed to make a disclosure. And as set forth herein. SO ORDERED. (Signed by Magistrate Judge Gabriel W. Gorenstein on 12/13/2022) (ama)

1:20-cv-08924-CM Notice has been electronically mailed to:

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